

### REMARKS

This is in Amendment to the Office Action mailed December 6, 2006. With this Amendment claims 8, 9, 15 and 16 are cancelled, and the remaining claims are unchanged. Reconsideration and withdrawal of the rejections are respectfully requested in view of the following remarks.

#### Restriction Requirement

The Office Action restricted the present application into two separate species. Claims 1-7, 10-14 and 17 were indicated as generic. With this response the Applicant elects the species indicated by Figure 5. That is the Applicant elects species II. Claims 1-7, 10-14 and 17 are directed to the presently elected species. This election is made without Traverse.

#### Claim Rejections under 35 U.S.C. § 112

The Office Action rejected the claims under 35 U.S.C. § 112 second paragraph as being indefinite. The Office Action asserted that the phrase “about a periphery” is unclear because one cannot determine if the applicant is seeking coverage for the embodiment of Figure 2 or the embodiment of Figure 5. The Applicant respectfully disagrees.

The test of whether a claim meets the requirements of 35 U.S.C. § 112, second paragraph, is whether one of ordinary skill in the art, given the prior art and the disclosure, would understand what is claimed by the claims. The test is not whether there is other suitable language available. *See* M.P.E.P. § 2173.02. Terms used in the claims are to be given their ordinary and customary meaning unless the Applicant provides a meaning otherwise. *See* M.P.E.P. § 2111.01.

First, the Applicant would like to point out that the phrase “about a periphery” modifies “touching” rather than indicating the location of the switch platform. Claim 1, for example, requires, “...a switch platform mounted to detect a touching about a periphery of said display...”

Thus, the Office Action's assertion that "about a periphery" describes the switch platform is incorrect because it does not properly address the claim language.

Furthermore, the Applicant asserts that the phrase "about a periphery" is clear, given the plain meaning of the words. The word *periphery* was defined by the Board as "a boundary line" or "a perimeter". See Decision page 6-7. Specifically, the Board in its decision was able to determine that the phrase "about a periphery" is directed towards touching on the display. Thus, the Applicant asserts that this phrase is clear, based at least upon its plain meaning. Reconsideration and withdrawal of the rejection are respectfully requested. However, if the Examiner remains of the opinion that the phrase "about a periphery" is still not clear, the Applicant respectfully requests that the Examiner provide a suggestion as to a terminology that would be acceptable, as provided in M.P.E.P. § 2173.02.

In conclusion, it is respectfully submitted that with this response that the claims and the terminology in the claims are clear. Therefore, in view of the above remarks, the applicant believes the pending application is in condition for allowance. Reconsideration and allowance of the pending claims are respectfully requested.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 08-2025, under Order No. 10004909-1 from which the undersigned is authorized to draw.

Dated: February 28, 2007

I hereby certify that this document is being  
Transmitted to the Patent and Trademark Office  
via electronic filing.

Date of Transmission: February 28, 2007

Respectfully submitted,

By   
Jody C. Bishop

Registration No.: 44,034  
(214) 855-8007  
(214) 855-8200 (Fax)  
Attorney for Applicant